

**First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 17-0949.01 Michael Dohr x4347

**HOUSE BILL 17-1208**

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**HOUSE SPONSORSHIP**

**Weissman,**

**SENATE SPONSORSHIP**

**Gardner,**

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**House Committees**

Judiciary  
Finance  
Appropriations

**Senate Committees**

Finance  
Appropriations

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**A BILL FOR AN ACT**

101      **CONCERNING CLARIFICATIONS TO THE CRIMINAL JUSTICE RECORDS**  
102      **SEALING PROCESS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

During the 2016 session, the general assembly adopted an expedited process for sealing the criminal records of a person who is acquitted, whose case is completely dismissed, who completed a diversion agreement, or who completed a deferred judgment and sentence. The bill clarifies that many of the general provisions related to criminal record sealing also apply to this expedited process. The bill

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

SENATE  
Amended 2nd Reading  
May 9, 2017

HOUSE  
3rd Reading Unamended  
May 1, 2017

HOUSE  
Amended 2nd Reading  
April 28, 2017

clarifies that if the case involved a crime that requires a victim to be notified of a motion for record sealing, the court shall allow up to 42 days to provide that notification before ruling on the motion on record sealing. The bill clarifies that the filing fee for state court cases goes to the judicial stabilization fund and the filing fee in a municipal court goes to the municipality. The bill allows the prosecuting attorney or law enforcement agency to release sealed police reports or protection orders to the named victim, if the victim demonstrates that there is a verifiable need for the reports for a lawful purpose.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-72-701, **add** (9)  
3 as follows:

4 **24-72-701. Definitions.** As used in this part 7, unless the context  
5 otherwise requires:

6 (9) "VICTIM" MEANS ANY NATURAL PERSON AGAINST WHOM ANY  
7 CRIME HAS BEEN PERPETRATED OR ATTEMPTED, UNLESS THE PERSON IS  
8 ACCOUNTABLE FOR THE CRIME OR A CRIME ARISING FROM THE SAME  
9 CONDUCT OR PLAN AS THE CRIME IS DEFINED UNDER THE LAWS OF THIS  
10 STATE OR OF THE UNITED STATES, OR, IF SUCH PERSON IS DECEASED OR  
11 INCAPACITATED, THE PERSON'S SPOUSE, PARENT, LEGAL GUARDIAN, CHILD,  
12 SIBLING, GRANDPARENT, GRANDCHILD, SIGNIFICANT OTHER, OR OTHER  
13 LAWFUL REPRESENTATIVE.

14 **SECTION 2.** In Colorado Revised Statutes, 24-72-702, **add**  
15 **(1)(f.5)** as follows:

16 **24-72-702. Sealing of arrest and criminal records other than**  
17 **convictions.** (1) (f.5) NOTWITHSTANDING THE PROVISIONS OF  
18 SUBSECTIONS (1)(e) \_\_\_\_\_ AND (1)(f) OF THIS SECTION, THE PROSECUTING  
19 ATTORNEY OR THE LAW ENFORCEMENT AGENCY MAY RELEASE TO THE  
20 VICTIM [REDACTED] IN THE SEALED CASE COPIES OF POLICE REPORTS OR ANY

1 PROTECTION ORDERS ISSUED IN THE SEALED CASE IF THE VICTIM  
2 DEMONSTRATES TO THE PROSECUTING ATTORNEY OR LAW ENFORCEMENT  
3 AGENCY A █ NEED FOR THE REPORTS OR COURT ORDERS FOR A LAWFUL  
4 PURPOSE. THE PROSECUTING ATTORNEY, INCLUDING STAFF OF THE  
5 PROSECUTING ATTORNEY'S OFFICE OR A VICTIM OR WITNESS ASSISTANCE  
6 PROGRAM, OR THE STAFF OF A LAW ENFORCEMENT AGENCY OR LAW  
7 ENFORCEMENT VICTIM ASSISTANCE PROGRAM, MAY DISCUSS THE SEALED  
8 CASE, THE RESULTS OF THE SEALING PROCEEDINGS, AND INFORMATION  
9 RELATED TO ANY VICTIM SERVICES AVAILABLE TO THE VICTIM.

10 **SECTION 3.** In Colorado Revised Statutes, **amend** 24-72-702.5  
11 as follows:

12 **24-72-702.5. Sealing criminal justice records other than**  
13 **convictions - simplified process - defendant option - processing fees.**

14 (1) (a) In addition to the procedures in section 24-72-702, any time a case  
15 against a ~~person in interest~~ DEFENDANT is completely dismissed, ~~where~~  
16 WHEN the ~~person in interest~~ DEFENDANT is acquitted OF ALL COUNTS IN  
17 THE CASE, the ~~person in interest~~ DEFENDANT completes a diversion  
18 agreement under section 18-1.3-101, ~~C.R.S.~~, or the ~~person in interest~~  
19 DEFENDANT completes a deferred judgment and sentence under section  
20 18-1.3-102, ~~C.R.S.~~, and all counts are dismissed, the court shall give the  
21 defendant eligible to have his or her criminal justice records sealed the  
22 option of immediately moving to have his or her criminal justice records  
23 sealed. This motion may be informal and may be made in open court at  
24 the time of the dismissal of the case or the acquittal of the defendant. The  
25 motion may also be made by the defendant at a ANY time subsequent to  
26 the dismissal or acquittal through the filing of a written motion IN THE  
27 CRIMINAL CASE WITH WRITTEN NOTICE TO THE PROSECUTING ATTORNEY.

1 (b) If the defendant moves under ~~this subsection (1)~~ SUBSECTION  
2 (1)(a) OF THIS SECTION to seal his or her criminal justice records under the  
3 expedited procedures of this section, the court shall promptly process the  
4 defendant's request to seal the criminal justice records within the criminal  
5 case without the filing of an independent civil action ~~When the court seals~~  
6 ~~criminal justice records under this section the court shall provide a copy~~  
7 ~~of the court's order to each custodian who may have custody of any of the~~  
8 ~~records subject to the order. The person in interest may also provide a~~  
9 ~~copy of the order to any other custodian of records subject to the order~~  
10 AND WITHOUT ANY FURTHER EVIDENCE EXCEPT FOR EVIDENCE OF THE  
11 DISMISSAL OR ACQUITTAL. MOTIONS FILED UNDER THIS SECTION ARE  
12 PROCEDURAL IN NATURE AND SEALING PURSUANT TO THIS SECTION  
13 APPLIES RETROACTIVELY FOR ALL ELIGIBLE CASES WHEN THE CASE HAS  
14 BEEN COMPLETELY DISMISSED OR THE DEFENDANT HAS BEEN ACQUITTED  
15 OF ALL COUNTS IN A STATE OR MUNICIPAL CRIMINAL CASE.

16 (c) NOTWITHSTANDING THE PROVISION OF SUBSECTION (1)(b) OF  
17 THIS SECTION, IF THE DEFENDANT IS ACQUITTED OF OR IF THE CASE  
18 DISMISSED IS A CRIME ENUMERATED IN SECTION 24-4.1-302 (1) IN WHICH  
19 NOTICE OF A HEARING ON A MOTION TO SEAL IS REQUIRED PURSUANT TO  
20 SECTION 24-4.1-303 (11)(b.7), THE COURT SHALL ALLOW THE DISTRICT  
21 ATTORNEY OPPORTUNITY TO NOTIFY THE VICTIM AND SHALL SET A RETURN  
22 DATE FOR A HEARING ON THE SEALING MOTION NO LATER THAN  
23 FORTY-TWO DAYS AFTER RECEIPT OF THE MOTION.

24 (d) WHEN THE COURT SEALS CRIMINAL JUSTICE RECORDS UNDER  
25 THIS SECTION, THE COURT SHALL PROVIDE A COPY OF THE COURT ORDER  
26 TO THE COLORADO BUREAU OF INVESTIGATION, AND THE DEFENDANT  
27 SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF HIS

1 OR HER CRIMINAL JUSTICE RECORDS IN THE CUSTODY OF THE BUREAU. THE  
2 COURT SHALL ALSO PROVIDE A COPY OF THE COURT ORDER TO EACH  
3 CUSTODIAN WHO MAY HAVE CUSTODY OF ANY RECORDS SUBJECT TO THE  
4 ORDER. THE DEFENDANT SHALL PROVIDE TO THE COURT, WITHIN SEVEN  
5 DAYS OF THE MOTION IF MADE ORALLY OR IN CONJUNCTION WITH THE  
6 MOTION IF FILED IN WRITING, A LIST OF ALL AGENCY CUSTODIANS WHO  
7 MAY HAVE CUSTODY OF ANY RECORDS SUBJECT TO THE ORDER.  
8 ADDITIONALLY, THE DEFENDANT MAY ALSO PROVIDE A COPY OF THE  
9 ORDER TO ANY OTHER CUSTODIAN OF RECORDS SUBJECT TO THE ORDER.  
10 EACH CUSTODIAN THAT RECEIVES A COPY OF THE ORDER SHALL REMOVE  
11 THE RECORDS THAT ARE SUBJECT TO THE ORDER FROM ITS RECORDS.

12 (e) THE PROVISIONS OF SECTION 24-72-702 (1)(d) TO (1)(g) AND  
13 SECTION 24-72-702 (4) APPLY TO THIS SECTION.

14 (f) THIS SECTION DOES NOT APPLY TO RECORDS THAT ARE SUBJECT  
15 TO THE PROCEDURE SET FORTH IN SECTION 18-13-122 (13).

16 (2) (a) A ~~person in interest~~ DEFENDANT moving to have his or her  
17 criminal justice records sealed under this section shall pay a processing  
18 fee of sixty-five dollars to cover the actual costs related to the sealing of  
19 the criminal justice records, WHICH MAY BE WAIVED BY THE COURT UPON  
20 A DETERMINATION OF INDIGENCY.

21 (b) WHEN THE MOTION TO SEAL THE CRIMINAL CASE IS FILED IN  
22 STATE COURT, the processing fees collected under ~~paragraph (a) of this~~  
23 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION must be transmitted to  
24 the state treasurer and credited to the judicial stabilization cash fund  
25 created in section 13-32-101 (6). ~~C.R.S.~~

26 (c) WHEN THE MOTION TO SEAL THE CRIMINAL CASE IS FILED IN  
27 MUNICIPAL COURT, THE PROCESSING FEES COLLECTED UNDER SUBSECTION

1 (2)(a) OF THIS SECTION MUST BE REPORTED AND PAID AS MUNICIPAL COST  
2 AND MUST BE TRANSMITTED TO THE TREASURER OF THE MUNICIPALITY  
3 AND DEPOSITED IN THE GENERAL FUND OF THE MUNICIPALITY PURSUANT  
4 TO SECTION 13-10-115.

5 **SECTION 4. Act subject to petition - effective date.** This act  
6 takes effect September 1, 2017; except that, if a referendum petition is  
7 filed pursuant to section 1 (3) of article V of the state constitution against  
8 this act or an item, section, or part of this act within the ninety-day period  
9 after final adjournment of the general assembly, then the act, item,  
10 section, or part will not take effect unless approved by the people at the  
11 general election to be held in November 2018 and, in such case, will take  
12 effect on the date of the official declaration of the vote thereon by the  
13 governor.